



U.S. Department of Justice

*United States Attorney
Southern District of New York*

86 Chambers Street
New York, NY 10007

April 14, 2020

BY ECF

Honorable Paul A. Engelmayer
United States District Judge
40 Foley Square
New York, NY 10007

Re: *Reclaim the Records, et al. v. U.S. Department of Veterans Affairs*, 18 Civ. 8449 (PAE)

Dear Judge Engelmayer:

This Office represents the United States Department of Veterans Affairs (the “VA”) in this Freedom of Information Act (“FOIA”) case. We write pursuant to this Court’s Opinion and Order, Dkt. No. 39, which instructed the VA “to file a letter on ECF explaining the nature of the data in the ‘cause of death’ field” in the VA database known as the Beneficiary Identification Records Locator Subsystem (“BIRLS”) Death File, *id.* at 23.

The VA has informed this Office that the “cause of death” field for a given veteran in the BIRLS Death File is populated with one of the four following values: “unknown,” “natural,” “combat,” or “other.” We also respectfully inform the Court that, upon further consideration, VA will release to Plaintiffs the data in this field for the 5,017,533 records previously released to Plaintiffs (for which the data in the “cause of death” field was withheld). VA is prepared to release this specific data to Plaintiffs on or before April 24, 2020. Plaintiffs do not object to this proposed production due date.

With respect to the data in this field for the balance of the BIRLS Death File at issue in this case (i.e., the portions of the database withheld in full from Plaintiffs), the VA respectfully submits that, for the reasons described in its motion papers concerning the balance of the BIRLS Death File, this data was properly withheld under Exemption 6. The VA recognizes, however, that this Court has ordered the production of the remainder of the BIRLS Death File and stated that the four values described above are “cursory and no more revealing than the other data regarding deceased veterans already released to Reclaim.” Dkt. No. 39 at 23. Thus, if the Court orders the production of the data in this specific field for the balance of the BIRLS Death File, the VA respectfully requests that the Court order an April 1, 2022, production date for such data “after remov[al] of data from the BIRLS Death File relating to living persons,” Dkt. No. 39 at 25—the same date on which this Court has ordered the production of the remainder of the BIRLS Death File after removing such data, *see id.* Counsel for Plaintiffs has informed the undersigned that Plaintiffs will not object to such a production date for this subcategory of data.

We thank the Court for its consideration of this submission.

Respectfully,

GEOFFREY S. BERMAN
United States Attorney

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cc: Counsel of record (via ECF)

The Court thanks the Government for this update and is pleased to learn that the VA has agreed to release the data in the “cause of death” field for those records already released to plaintiffs. The Government is directed to disclose the “cause of death” data for the remaining records on the same timeline as the other information that the Court ordered disclosed in its March 24, 2020 order, *i.e.*, by April 1, 2022. The Government is further directed to update the Court as records are released to Reclaim. In the interim, this matter is hereby stayed. SO ORDERED.



PAUL A. ENGELMAYER 4/14/2020
United States District Judge